IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.F.A. No. 1930 of 1999
Date of decision: November 8,2006

Raksha Sharma V. State of Haryana and others

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present: Shri M.L.Sarin,Senior Advocate, with Hemant Sarin, Advocate,
Shri Shailendra Jain,Advocate,
Shri M.L.Sharma,Advocate,
Shri Rakesh Garg,Advocate,
Shri Sumeet Goel,Advocate,
Shri Sameer Sachdev,Advocate,
Shri S.K.Goyal,Advocate.

for the appellants.

Shri H.S.Hooda,Advocate General,Haryana with Shri Ramesh Hooda,Advocate, for the respondent-State.

Viney Mittal,J.

This judgment shall dispose of a batch of Regular First Appeals. The aforesaid first appeals have arisen out of the judgments and awards passed by the reference Courts, though separately on four occasions, but with regard to two notifications issued under section 4 of the Land Acquisition Act, 1894(hereinafter referred to as " the Act"),whereby land was notified for acquisition in three villages for development and utilisation as residential and commercial areas for various sectors of Panchkula. Since the evidence in all the cases overlaps each other and all the three villages are shown to be contiguous and in any case in the near vicinity of each other, therefore, the arguments have been addressed by the learned counsel for the parties commonly in all the cases and,

in these circumstances, all the appeals are disposed by this common judgment. Whereas the claimant-landowners are in appeal claiming further enhancement of compensation for their acquired land, the State of Haryana has also filed appeals, claiming reduction in the market value, as assessed by the reference court. In some cases in the appeals filed by the State of Haryana, claimant-landowners have chosen to file cross-objections. The said cross-objections are also being disposed of through the present judgment.

Two separate notifications were issued by the State government on January 29,1990 under section 4 of the Act. Land measuring 132.1 acres situated in village Kundi was notified for acquisition through one notification. Through another notification of the same date, land measuring 117.08 acres situated in village Fatehpur and land measuring 5.82 acres in village Rally was so notified for acquisition. The Land Acquisition Collector rendered two separate awards. Vide award dated January 21,1993, the acquired land of village Kundi was assessed at the market value of Rs. 1,00,000/- per acre. Through an earlier award dated October 11,1991, the Land Acquisition Collector assessed the market value of the acquired land in villages Fatehpur and Rally also at the market value of Rs. 1,00,000/- per acre. The claimant-landowners felt dissatisfied with the assessment of the market value and, as such claimed reference under section 18 of the Act. The matter was accordingly referred.

In the reference proceedings, the claimants as well as the State of Haryana led evidence in support of their respective claims. It appears that reference courts rendered four separate awards on different occasions. Vide award dated December 16,1998, acquired land of village Kundi was assessed to the market

value of Rs. 250/- per square yard. Through another award dated September 27,2001,the reference Court assessed the market value of some of the acquired land in village Fatehpur and Rally at the rate of Rs.160/- per square yard. A similar assessment was made through another award dated December 20,2001 when again the acquired land of villages Fatehpur and Rally was assessed to the market value of Rs.160/-per square yard. Lastly through a similar award dated May 2,2002, the Land Acquisition Collector assessed the market value of the acquired land of village Kundi at the rate of Rs.160/- per square yard. The claimant-landowners were also held entitled to the statutory benefits, as admissible to them, in accordance with law.

As notice above, the claimants have approached this court through first appeals claiming further enhancement of the market value. The State of Haryana has also filed appeals claiming reduction in the market value.

I have heard the learned counsel appearing for the claimants-landowners and Shri Hawa Singh Hooda, learned Advocate General, Haryana for the respondent-State and with their assistance have also gone through the record of the case.

Learned counsel appearing for the respective parties have referred to various findings recorded by the reference court in the four awards and have also taken me through the evidence on the record. Whereas the claimants have claimed that the evidence on the record reflects a much higher market value at the time of the acquisition, the learned Advocate General,Haryana has claimed that the evidence on the record has been misinterpreted and misconstrued by the reference court in various awards and as such the market value assessed by the reference courts is much on the

higher side. Additionally, the claimant-landowners have also claimed that whereas through an award dated December 16,1998, the reference court had assessed the market value of the acquired land in village Kundi at the rate of Rs.250/- per square yard, whereas for the similar acquired land through the same notification, through another award dated May 2,2002, the reference court had assessed the market value of the acquired land at the rate of Rs.160/- per square yard. Learned counsel have claimed that this assessment by the reference court in the latter reference proceedings was totally contrary to the earlier assessment and was in fact in direct conflict. Similarly learned counsel appearing for the claimants have also claimed that the acquired land of villages Fatehpur and Rally was also liable to be assessed on the same basis as the land of village Kundi had been assessed, inasmuch as the entire evidence pertaining to the said villages was also similar and identical, as led with regard to the assessment of the acquired land of village Kundi, when an award had been pronounced in reference proceedings on December 16,1998.

At the outset it may be noticed that a batch of first appeals arising out of an earlier award of villages Bana Madanpur, Ramgarh, Moginand and Jhuriwala had come up for consideration before this court. After taking into consideration the findings recorded by the reference court in the said appeals and further noticing that some material evidence had been ignored by the reference court in those proceedings, this court vide a detailed judgment in RFA No.1281 of 1999 decided on October 27,2006 (Gurdev Singh and others V. State of Haryana) had accepted the aforesaid appeals filed by the claimant-landowners as well as the State of Haryana and had remanded the cases back to the reference court for fresh

adjudication. Various observations with regard to the evidence led by the parties in those proceedings had also been made. All the contentions raised on behalf of the respective parties had also been noticed.

On the basis of the remand order passed in Gurdev Singh's case (supra) another batch of appeals being RFA No.2574 of 2002 (Tara Devi V.State of Haryana and another) and other connected matters were also remitted back to the reference Court vide separate judgment dated October 27,2006. In Tara Devi's case (supra) the assessment pertained to the acquired land through notification dated May 4,1995 pertaining to village Jhuriwala and Bana Madanpur.

From the perusal of the evidence led in the present proceedings, it appears that identical evidence had been led by the parties in these proceeding as had been led in Gurdev Singh's case. As a matter of fact most of the evidence is same. Identical contentions have been raised by the learned counsel for the parties as had been raised in Gurdev Singh's case. In these circumstances any comments on the evidence led by the parties in the present proceedings and any further comments upon the various contentions raised by the learned counsel for the parties, would actually amount to pre-adjudging the controversy involved in Gurdev Singh's case and other connected matters. In any case, the reference court in the aforesaid cases has yet to make fresh assessment as directed by this court.

In these circumstances, it would be appropriate if a similar course is adopted in the present appeals as had been adopted in Gurdev Singh's case. This course would not only help in adopting a uniform principle for assessment of the market value of

the land, the same would also be required for doing substantial justice between the parties. Therefore, it would be appropriate if, for the detailed reasons given in Gurdev Singh's case (supra), the present appeals are also remitted back to the reference court for fresh determination.

As a consequence, all the present appeals are allowed. Various awards under challenge in the present appeals, rendered by the reference court are set aside. The matter is remanded back to the reference court for determination of the market value afresh, on the basis of the observations made in Gurdev Singh's case (supra).

Since the matter is being remanded back to the reference court for fresh determination, the parties to the dispute would be at liberty to lead such further evidence, as may be desired by them, in accordance with law.

At this stage it may also be noticed that Civil Miscellaneous application No.10020/C1/06 has been filed by the claimant-landowners in RFA No.1930 of 1999 seeking permission to lead additional evidence. Since the matter has been ordered to be remanded back to the reference court for fresh determination and a liberty has been granted to all the parties to lead further evidence, therefore, the claimants in the aforesaid appeals, shall also be at liberty to lead further evidence before the reference court. Consequently, the Civil Miscellaneous application No.10020/CI of 2006 is disposed of with the aforesaid liberty to the claimant-landowners.

It is further directed that if any enhanced compensation in pursuance to the award rendered by the reference court has been paid to the claimant-landlords, then the same would not be recovered from them till the matter is finally adjudicated by the

reference court and such payment shall abide by the final assessment of the market value by the reference court.

The parties thorough their learned counsel are directed to appear before the learned District Judge, Panchkula on December 11,2006. The learned District Judge may either keep the reference proceedings with himself or may allocate the same to a court of competent jurisdiction for fresh determination of the market value.

Office is also directed to send back the lower court record forthwith.

A copy of the order be given dasti on payment of charges for urgent copies.

November 8,2006 (Viney Mittal)
sks Judge